

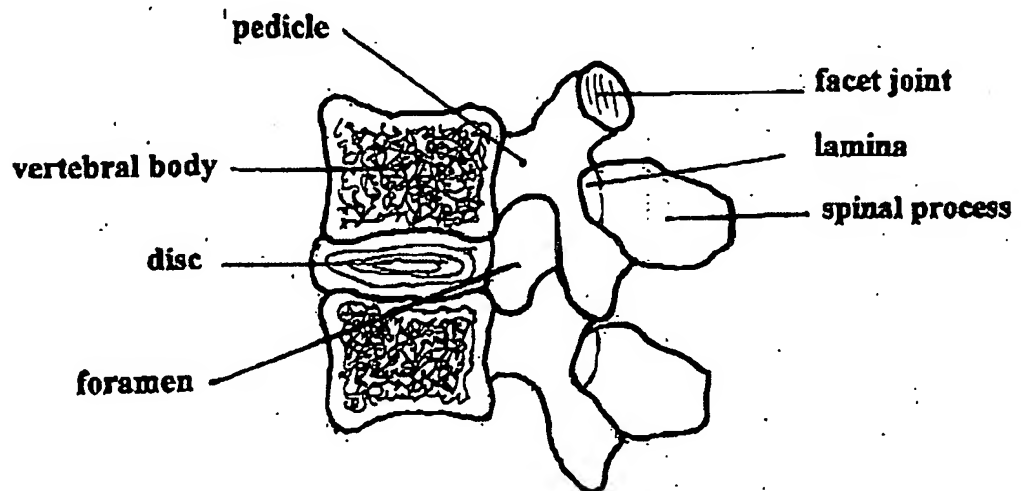
### REMARKS

The Office Action of April 15, 2008 has been carefully considered.

Claims 1-8 (believed to be claims 17-24) stand rejected under 35 USC 102(b) as anticipated by Xavier et al, and Claim 25 has been rejected under 35 USC 103(a) over Xavier et al.

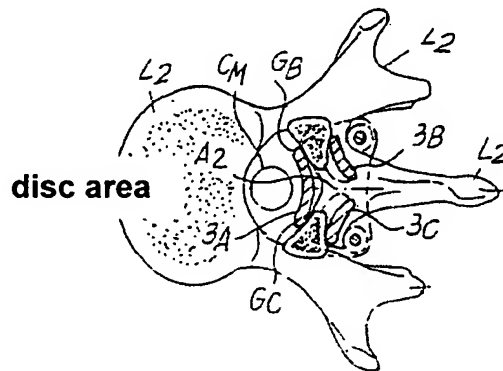
Xavier relates to a prosthesis for two vertebral bodies, which can be used in patients that have very serious spinal illness, and where replacement of the entire vertebrae is necessary. Xavier et al teaches away from the invention, since the object of the invention is to avoid such a very invasive disc prosthesis.

The invention utilizes the inter-laminar gap to introduce the intervertebral prosthesis, and to fix it by means for engaging the vertebrae between the laminar arches.



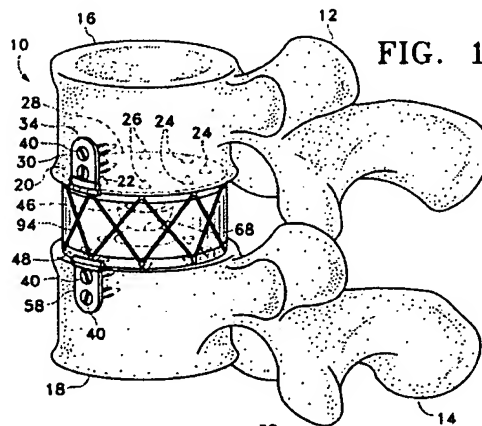
As it can be seen from Fig. 6 of the present application, annotated and reproduced below, the area of the disc is completely left free by the operation.

Fig.6



This enables the surgeon to operate from the patient's back side, with a minimally invasive procedure.

To the contrary, Xavier et al requires an operation which must be from the patient's front side. In fact, the bone marrow is in between the interlaminar area and the disc, and therefore, the operation according to Xavier et al cannot be carried out from the patient's back side. This is evident from Fig. 1 of Xavier et al, reproduced below.



This is a serious disadvantage, and the operation suggested by Xavier et al is very invasive.

As claim 17 has now been amended to clarify that the elastic body is constructed and arranged for placement in an

inter-laminar region between two adjacent lumbar vertebrae, and the means for securing the elastic body to the adjacent lumbar vertebrae comprise means for engaging the vertebrae between laminar arches of the adjacent lumbar vertebrae, the claimed device is clearly distinguished from Xavier et al, and withdrawal of these rejections is requested.

Claims 26 and 27 have been rejected under 35 USC 103(a) over Xavier et al in view of Casutt.

Casutt discloses an artificial intervertebral disc, i.e. the biological cushioning element between two vertebral bodies. In other words, as shown in Fig. 1 of Casutt, the artificial intervertebral disc is equivalent to Xavier et al, and teaches away from the present invention. Again, the disc and the interlaminar gap lie on opposite sides with respect to the bone marrow, and for this reason, Casutt also requires a completely different kind of operation. In Xavier et al and Casutt, a disc must be removed from the spine, and the removed disc replaced by the prosthesis. According to the invention, the prosthesis is simply introduced in the intervertebral area behind the bone marrow, as depicted above.

Withdrawal of this rejection is requested.

Claims 28-32 have been rejected under 35 USC 103(a) over Voydeville in view of Xavier et al.

Voydeville discloses a cushioning element to be placed between the spinal processes of two consecutive vertebrae. The spinal processes are much more external with respect to the bone marrow than the interlaminar region. For this reason, a cushioning element placed between the spinal processes can only be a provisional relief for pain, not a prosthesis.

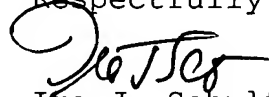
The solution proposed by Voydeville and Xavier et al are thus antithetical, and cannot be logically combined to arrive at the invention.

The ligaments of claims 28-32 are designed for a interlaminar prosthesis, while the ligaments adapted to fix a cushioning element to be placed between the spinal processes, as proposed by Voydeville are completely different.

Withdrawal of this rejection is requested.

In view of the foregoing amendments and remarks, Applicants submit that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



Ira J. Schultz  
Registration No. 28666  
Attorney for Applicants  
(703)837-9600, ext. 23